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EXAMINER
WEST, THOMAS C

ART UNIT	PAPER NUMBER
3621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/628,569	LABROU ET AL.
Office Action Summary	Examiner	Art Unit	
	THOMAS WEST	3621	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>24 December 2008</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-37</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-37</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All   b) ☐ Some * c) ☐ None of:

       1. ☐ Certified copies of the priority documents have been received.

       2. ☐ Certified copies of the priority documents have been received in Application No. _____.

       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12-31-08</u>

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Detailed Action

Status of Claims

1.   This is in response to the Arguments/Remarks filed January 2, 2009. Claims 1-37

are currently pending and have been examined.

Information Disclosure Statement

2.   The Information Disclosure Statement filed on December 31, 2008 has been

considered. An initialed copy of the Form 1449 is enclosed herewith.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   Claims 1, 3, 37 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

5.   Claims 1, 3, 37 recite a "first input non-stored parameter", which makes it unclear

how this input parameter could be manipulated by any type of computer system. Since

a computer readable memory is an essential component in any computer system,

without it no computation on parameters thru code is possible. The specification recites

"it should not be retained (stored) by the device for a period longer than the transaction

execution time" (paragraph 524), clearly showing this parameter is stored for the

duration of transaction execution time. The specification further recites, "The users PIE

is also stored in the User and Device Database at the AVP" (paragraph 524). Claim 1

further recites, "a first input non-stored non-transmitted parameter" and "storing the first

parameter of the consumer mobile device, which is the input non-stored non-transmitted

parameter". It is unclear whether the first input parameter is stored or non-stored. The

above rendering these claims indefinite.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1-7, 15, 16, 27, 35-36, 37 are rejected under U.S.C. §103(a) as being

unpatentable over Mizrah, U.S. Patent No. 7,379,916, in view of Hird U.S. Patent No.

2002/0141575.

Claims 1, 3, 37:

a mobile device of the consumer, the consumer mobile device comprising a computer

controller (see col. 10, lines 44-57, POS, communication devices, mobile phones, enter

PIN (controller))

a device of the merchant (see col. 10, lines 44-57, POS);

a trusted secure transaction server (STS) device of the third party, the STS device

comprisinq a computer controller (see col. 9, lines 34-38 financial institution);

identifying the consumer to the STS device (see col. 10, lines 57-67 and col. 11, line 1,

transaction, authentication, PIN).

wherein the consumer mobile device and the STS device each verifying controllers

verify a purchase transaction between the merchant and the consumer over the open

and non-secure wireless communication channel (see col. 7, lines 1-12 verify

transaction, col. 16, lines 1-12 non-secure communication, col. 19, lines 1-8 wireless

connections)

Mizrah discloses the limitations shown above. Mizrah does not directly disclose non-

transmitted parameters, but Hird does:

prompting input of a first input non-stored non-transmitted parameter and a storage

storing a second non-transmitted parameter, (paragraph 52 input value PIN, masked

value);

a storage storing the first parameter of the consumer mobile device, which is the input

non-stored non-transmitted parameter of the consumer mobile device and storing the

second stored non-transmitted parameter (paragraph 52 input value PIN, masked

value)

based upon both the first input non-stored and non-transmitted parameter input to the

consumer mobile device and at the second stored and non-transmitted parameter of the

consumer mobile device (paragraph 52 input value PIN, masked value)

a storage storing a second non-transmitted parameter; (see paragraph 52 masked

value)

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify Mizrah to include the non-transmitted parameters of Hird since this allows for

increased transaction security and reduces the possibility of replay attacks.

2. The computer system as in claim 1, wherein the wireless communication channel is a

local wireless network and the consumer mobile device comprises a local wireless

network interface connecting to the local wireless network (see col. 6, lines 33-36,

wireless personal organizer).

4. The computer system as in claim 3 wherein the consumer mobile device executes a

web browser application providing a user interface to the purchase transaction, a

purchasing application executing the verifying and a submit receipt application

generating a receipt of the purchase transaction (see col. 6, lines 30-33, GUI/URL, col.

1, lines 42-44, selling slip).

5. The computer system as in claim 2, wherein the communication network in

communication with the merchant device and the STS device is a wire and/or a wireless

network, and the merchant device further comprises a wire and/or wireless network

interface connecting to the wire and/or wireless network in communication with the STS

device, (see col. 10, lines 15-21, POS, communication lines)

wherein the merchant device executes a merchant retail application program providing

a user interface to the purchase transaction and a purchasing application program

executing the verifying (see col. 17, lines 11-20, program module, POS).

6. The computer system as in claim 4, wherein the consumer mobile device comprises

a lightweight processor with storage executing the purchase application, the web

browser, and the submit receipt application (see col. 19, lines 9-16, smart card,

(inherently lightweight processor),

and the consumer mobile device further comprises: a battery; a display; and

means for a user to input information including navigation buttons or a touch screen of

the display (see col.10, lines 44-50, URL/GUI, (mobile device inherently contains a

battery)).

7. The computer system as in claim 6, wherein the consumer mobile device is credit

card sized of approximately 55mm x 85 mm and approximately 10mm thick or thinner

(see col. 19, lines 9-16, smart card).

15. The computer system as in claim 6, wherein the consumer mobile device interfaces

to a remote display located remotely from the consumer mobile device, on the merchant

device (see col. 12, lines 45-51, merchant POS authorization session).

16. The computer system as in claim 6, wherein the consumer mobile device is a Personal Digital Assistant (PDA) or a mobile phone (see col. 6, lines 33-36, wireless personal organizer).

27, 28. wireless communication channel between the consumer mobile device and the merchant device is a cellular telephone network and the consumer mobile device associates with the purchase transaction, as proximity binding of the consumer (see col. 7, lines 41-53, matching transaction parameters).

the merchant device executes a physical goods purchase as the purchase transaction and associates, as a binding, the physical goods purchase with the consumer mobile device (see col. 7, lines 41-53, matching transaction parameters).

29. The computer system as in claim 28, wherein the controller of the merchant device partitions software execution by executing the merchant retail application program and the purchasing application program executing the Protocol verifying in separate processing partitions (see col. 17, lines 11-20, program module).

30. The computer system as in claim 29, wherein the wire and/or wireless network between the STS device and the merchant device is a secure network connection channel (see col. 8, lines 36-38, secure transaction).

31. The computer system as in claim 30, wherein the secure network connection to the STS device is over Internet (see col.10, lines 44-50).

32. The computer system as in claim 31, wherein the secure network connection channel to the STS device is wireless (see col. 8, lines 36-39, secure wireless transaction).

35. The computer system of claim 1, wherein the STS device includes a secure physical environment protecting integrity of the consumer and merchant accounts (see col. 8, lines 36-39, secure transaction).

36. The computer system of claim 35 further comprising a plurality of STS devices handling varying processing load and access demands according to geographic constraints (see col. 6, lines 1-3).

8.   Claims 8, 10, 11, 17-26, 33, 34 are rejected under U.S.C. 103(a) as being unpatentable over, Mizrah, U.S. Patent No. 7,379,916, in view of Hird, U.S. Patent No. 2002/0141575, in view of Drummond, U.S. Patent No. 7,025,256.

Claims 8, 10, 11, 17 – 26, 33, 34.

Mizrah discloses:

10. The computer system as in claim 9, wherein the purchase transaction is for purchase of a physical good or a token presentation (see col. 4, lines 7-8, buy/sell transaction).

11. The computer system as in claim 10, wherein the consumer mobile device includes means for indicating readiness to authorize payment including one or more of a "Pay" button or a touch screen "Pay" button (see col. 4, lines 21-30, buy/sell transaction authorization)

Mizrah discloses the limitations shown above. Mizrah does not directly disclose non-transmitted parameters, but Drummond does:

the local wireless network interface of the consumer mobile device is WiFi and the computer system further comprises a WiFi access point operated by the merchant device and the merchant device provides a directory service on the local wireless network (see col. 6, lines 28-47, wireless access point).

the local wireless interface of the consumer mobile device includes IR and the computer system further comprises an IR access point operated by the merchant device (see col. 6, lines 28-47, lines, IR).

the local wireless interface of the consumer mobile device includes WiFi and the computer system further comprises one or more WiFi access points operated by another party as a hotspot application (see col. 6, lines 28-47, other wireless network interfaces, (hotspot is inherent to a WiFi network)).

the local wireless interface of the consumer mobile device includes WiFi and the computer system further comprises one or more WiFi access points operated by another party as a hotspot application (see col. 6, lines 28-47, other wireless network interfaces).

the local wireless interface of the consumer mobile device includes Bluetooth and the computer system further comprises one or more access points operated by another party as a hotspot application (see col. 6, lines 28-47, other wireless network interfaces, Bluetooth).

the local wireless interface of the consumer mobile device includes IR and the compute system further comprises one or more access points operated by another party as a hotspot application (see col. 6, lines 28-47, IR).

the local wireless interface of the consumer mobile device UWB and the computer system further comprises one or more access points operated by another party as a hotspot application (see col. 6, lines 28-47, plurality of wireless devices).

multiple local wireless network access points operated by another party but granting access to the merchant device and the consumer mobile device (see col. 6, lines 28-47, plurality of wireless devices).

the local wireless interface of the consumer mobile device is a point-to-point connection based on IR (see col. 6, lines 28-47, IR).

multiple local wireless network access points operated by the merchant and granting access to the consumer mobile device (see col. 6, lines 28-47, plurality of wireless devices).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify Mizrah to include the IR and wireless technology of Drummond since this

allows for flexibility in wireless and IR offerings to the consumer.

With regard to the limitations below, Drummond discloses various wireless interface

technologies. Drummond does not specifically disclose UWB and Zigbee. However,

the Examiner takes **Official Notice** that it is old and well known in the computer

communication art that various wireless technologies exist, such as Bluetooth, UWB

and Zigbee. It would have been obvious to one of ordinary skill in the art at the time of

the invention to modify Drummond with the elements of UWB and Zigbee because

these are wireless technologies that can be utilized as communication interfaces by

design choice.

the local wireless interface of the consumer mobile device includes UWB and the

computer system further comprises a UWB access point operated by the merchant

device.

the local wireless interface of the consumer mobile device includes Zigbee and one or

more access points operated by another party as a hotspot application

the local wireless interface of the consumer mobile device includes Zigbee and the

computer system further comprises a Zigbee access point operated by the merchant

device

the wireless network interface of the consumer mobile device can be any of, WiFi,

Bluetooth, UWB, IR, ZIgbee, or other local wireless network interface, or a cellular

telephone network

9.   Claim 9 is rejected under U.S.C. §103(a) as being unpatentable over, Mizrah,

U.S. Patent No. 7,379,916, in view of Hird U.S. Patent No. 2002/0141575, in view of

Drummond, U.S. Patent No. 7,025,256, and in further view of Beigel, U.S. Patent

Application No. 20030174049.

Claim 9

Mizrah/Drummond disclose the limitations as shown above. Mizrah/Drummond does not

directly disclose speech or RFID technology, but Beigel teaches:

the consumer mobile device associates, as a proximity binding, with the purchase

transaction, based upon one or more of a barcode display, a barcode, an RF-ID tag or

location determination (paragraph 2, RFID).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify Mizrah/Drummond to include the speech and RFID technology of Beigel since

this allows for a speech interface and RFID transaction binding, which further enhances

the user interface options and transaction binding options.

10.   Claims 12-14 are rejected under U.S.C. §103(a) as being unpatentable over,

Mizrah, U.S. Patent No. 7,379,916, in view of Hird U.S. Patent No. 2002/0141575 and in

further view of Beigel, U.S. Patent Application No. 20030174049.

Mizrah disclose the limitations as shown above. Mizrah/Drummond does not directly

disclose speech or RFID technology, but Beigel teaches:

the consumer mobile device is without a display and comprises means for

communicating output including synthesized speech (paragraph 52).

the consumer mobile device is without buttons or a touch screen and comprises input

means including a microphone processing input by speech recognition and output

means for communicating output including synthesized speech (paragraph 52).

the consumer mobile device further comprising a biometric sensor identifying a user

according to one or more of fingerprint or face recognition (paragraph 29).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify Mizrah/Drummond to include the speech and RFID technology of Beigel since

this allows for a speech interface and RFID transaction binding, which further enhances

the user interface options and transaction binding options.

Response to Arguments

11.   Applicant's arguments with respect to non-transmitted parameters have been

considered but are moot in view of the new grounds of rejection. Applicants further

arguments regarding a non-stored parameter are discussed here. Claims 1, 3, 37 recite

a "first input non-stored parameter", which makes it unclear how this input parameter

could be manipulated by any type of computer system. Since a computer readable

memory is an essential component in any computer system, without it no computation

on parameters thru code is possible. The specification recites "it should not be retained (stored) by the device for a period longer than the transaction execution time" (paragraph 524), clearly showing this parameter is stored for the duration of transaction execution time. The specification further recites, "The users PIE is also stored in the User and Device Database at the AVP" (paragraph 424). Claim 1 further recites, "a first input non-stored non-transmitted parameter" and "storing the first parameter of the consumer mobile device, which is the input non-stored non-transmitted parameter". It is unclear whether the first input parameter is stored or non-stored. The above rendering these claims indefinite.

Conclusion

12.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Thomas West whose telephone number is 571-270-
1236. The examiner can normally be reached on Tuesday and Wednesday 7:30am -
5pm EST.

       If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Andrew Fischer can be reached on 571-272-6779. The fax phone number
for the organization where this application or proceeding is assigned is 571-273-8300.

       Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should
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USPTO Customer Service Representative or access to the automated information
system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thomas West
Patent Examiner
Art Unit 3621
March 28, 2009

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621